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Serial No. 09/498234
Examiner: A. Armstrong
Art Unit: 2654
Atty Docket: AUS990879US1

REMARKS

Claims 1, 2, 4-8, 15, and 18-21 were pending and examined. The Examiner rejected claims 1, 2, 4-6, 15, and 18-21 under 35 USC § 103(a) as unpatentable over Wilcox (US Patent No. 5,199,077) in view of Melih et al., *Audio Retrieval Using Perceptually Based Structures*, further view of Lee (US Patent No. 6,067,520). The Examiner further rejected claims 7 and 8 under 35 USC § 103(a) as unpatentable over Wilcox in view of Melih and Lee as applied to claim 1 and further in view of well known prior art.

Claim rejections under 35 USC § 103(a)

Independent claims 1-2, 4-6, 15, and 18-21 were rejected under 35 USC § 103(a) as unpatentable over Wilcox in view of Melih and Lee. Claims 7 and 8 were rejected under 35 USC § 103(a) as unpatentable over Wilcox in view of Melih, Lee, and well known prior art. Applicant respectfully traverses the Section 103 rejection of the independent claims 1 and 15 because there is no motivation to combine Wilcox and Melih to arrive at the claimed combination.

The invention, as recited in the pending claims, includes a mechanism for converting text-based input into a digital representation of the diphthong components of the input, a mechanism for converting audio content (such as the content of a CD or audio tape) into a digital representation of the audio content diphthong sequence, and a comparator to compare the two representations for the purpose of finding the location of the matching audio content on the medium. Wilcox describes a mechanism for locating a word in recorded continuous voice speech using a spoken version of the word as a keyword. The Office Action acknowledges that Wilcox does not disclose wherein the input is a text sample.

Supporting the Section 103(a) rejection of the independent claims, the Office Action cites Melih as suggesting that "a textual based query is useful when specifying broad search categories." The Office Action then concludes that it would have been obvious to modify the system of Wilcox to allow for textual input for query searching as taught by Melih "for the purpose of providing system searching capabilities via broad search categories, as suggested by Melih." Applicant would respectfully submit that, while Melih may suggest the use of text-based input in conjunction with "broad search categories," Melih clearly teaches away from the use of

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text input in the other contexts including the context with which the invention as recited in the pending claims is concerned, namely, using text input for to specify the precise content of interest. The passage in Melih relied upon in the Office Action reads as follows:

There are a number of methods by which queries can be posed. The lowest level involves specifying the numerical values of the index keys directly. This is obviously of little practical use. Texts based queries, while suffering some problems mentioned later, may be useful when specifying broad search categories. The most natural, and useful, form of query from an audio database is by example (e.g., the desired melody is hummed into a suitable interface to form the query).

Thus, Melih suggests a very limited function for text based input in the context of searching (or browsing) audio content. When Melih speaks of broad categories, she is speaking of categories such as speech, music, silence, and noise. See, e.g., Melih p. 345, first column, first paragraph ("Audio data can be classified into one of four categories: speech, music, silence and noise). Thus, when Melih suggests that a text-based input is suitable for broad search categories, she is suggesting a search such as "find all sections containing speech." Melih, p. 339, first column, last paragraph.

Contrasting sharply with the limited use of text based input for audio searching suggested by Melih, the pending claims recite text-based input for specific searches of audio content. The pending claims recite generating an input sample diphthong sequence from input sample text, wherein the diphthong sequence is a digital representation of the diphthong components of the input sample text. The claims recite that this diphthong sequence is then compared with diphthong sequences generated from the audio content to discover a match. This claim language clearly conveys that text based input is being used to specify the audio content of interest. Melih, as noted above, merely suggests that text may have limited value when specifying broad (non-specific) search categories such as speech, music, noise, etc. Melih, by implication, clearly counsels against the use of text based queries for other types of searches (i.e., for finding specific audio content). Instead, Melih teaches that the appropriate form of input for a locating content specifically is "example" input (such as when a desired melody is hummed into a suitable interface). Melih, p. 339, first column, first paragraph.

A Section 103(a) rejection is appropriate only when the cited references teach all of the claimed limitations and when there is appropriate suggestion or motivation to combine the

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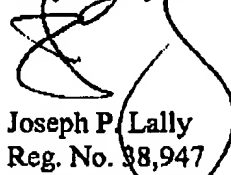
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references. MPEP 2143. Applicant would respectfully submit that, in this case, one skilled in the art having the benefit of the cited references would not have taken a suggestion from or found motivation in Melih's explicitly limited description of the usefulness of text-based queries in the context of audio content searching to modify Wilcox to incorporate a text-based input mechanism. To the contrary, one having the benefit of Melih would have concluded from Melih that it would most likely not be beneficial to modify Wilcox to employ text-based input. In the absence of proper suggest or motivation to combine a pair of references, a Section 103(a) is inappropriate and Applicant would respectfully request the Examiner to reconsider and withdraw the Section 103(a) rejection.

CONCLUSION

In the present response, Applicant has to the Examiner's claim rejections under 35 USC 103(a), which is the only issue remaining in the application. Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



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